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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,065	10/24/2005	Catherine Robert	S1022.81242US00	1848

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EXAMINER

VICARY, KEITH E

ART UNIT	PAPER NUMBER
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2183

MAIL DATE	DELIVERY MODE
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10/29/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/535,065	Applicant(s) ROBERT ET AL.	
	Examiner Keith Vicary	Art Unit 2183	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: _____
 Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: See Continuation Sheet.


RICHARD L. ELLIS
PRIMARY EXAMINER

Continuation of 3. NOTE: The new amendments bring up several 112 issues and thus do not place the application in better form for appeal. See the partially amended limitation of "assigning a first value to a first set of bits of the at least one digital message to provide the at least one digital message comprising an explicit jump message" in claim 1 for example. It is indefinite as to how a first value can "provide" the at least one digital message in response to the first value being assigned to an already existing "the at least one digital message". It is also indefinite as to how "the at least one digital message" can simultaneously comprise (given the antecedent basis) both an explicit jump message and an implicit jump message, in this context. Examiner recognizes what applicant is attempting to convey, but the limitations should be reworded (for example, the "comprising the explicit/implicit jump message" limitation) to overcome the indefiniteness.

The new amendments would also require further search and consideration. See, for example, claim 1, which recites additional limitations such as "to provide the at least one digital message comprising an explicit jump message." Although determining that a jump was explicit caused the assigning of a first value to a digital message, as disclosed in the previous set of claims, there was no requirement that the digital message was "an explicit jump message," just that the message was modified in response to the determination that a jump was explicit. Thus, in the previous set of claims, the message did not have to contain any data about the explicit jump, whereas in the current set of claims, the message would have to contain data about the explicit jump because it is labelled as such.

Continuation of 13. Other: The arguments regarding the prior art rejection will now be addressed. Applicant argues on page 7 and the top of page 8 that although Argade teaches the INSTR_TYPE and address signals, Argade does not teach other limitations such as the explicit and implicit jump message. However, as written in the rejection above, it is Nexus that teaches those other limitations. Argade teaches identifying a jump from several types of jumps, and when applied to the invention of Nexus which teaches digital messages which contain fields for information, all limitations are taught. Applicant also argues that the additional field of the implicit jump message, as compared to the explicit jump message, identifies a type of an implicit jump, rather than [an] address. Again, Nexus as modified by Argade teaches this limitation. Argade teaches identifying types of jumps, specifically, explicit jumps and types of implicit jumps. Given that Nexus already differentiates between implicit and explicit jumps in general given his two different types of digital messages, it would have been readily recognized to one of ordinary skill in the art at the time of the invention that incorporating Argade into Nexus would only need to entail incorporating the types of implicit jumps.